

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No.: EB-10-CG-0013
Gary L. Stanford, d.b.a.)	
)	Citation No.: C201132320001
Spark Gap CB Shop)	
)	FRN: 16 7248 90
Lincoln, Illinois)	

CITATION

ILLEGAL MARKETING OF UNAUTHORIZED RADIO FREQUENCY DEVICES

Adopted: June 1, 2011

Released: June 2, 2011

By the District Director, Chicago District Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official **CITATION** issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (“Communications Act”),¹ to Gary L. Stanford, d.b.a. Spark Gap CB Shop (“Spark Gap CB”) for marketing in the United States unauthorized radio frequency devices and external radio frequency power amplifiers in violation of section 302(b) of the Communications Act,² and sections 2.803(a)(1) and 2.815(b) of the Commission’s rules (“Rules”).³

2. Spark Gap CB should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject you to substantial monetary penalties, seizure of equipment, and criminal sanctions.

II. BACKGROUND

3. On November 1, 2010, an agent from the Enforcement Bureau’s Chicago Office visited the Spark Gap CB shop located at 926 Woodlawn Road, Lincoln, Illinois. The agent asked if the store had any amplifiers for sale and a store employee showed the agent a display case with external radio frequency power amplifiers for sale from several different manufacturers. The store employee also suggested that the agent consider purchasing a ten-meter amateur radio that is modified to operate on frequencies in the eleven-meter Citizen’s Band. The store employee showed the agent a ten-meter amateur radio that was on display and operating on a Citizen's Band frequency.

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302(b).

³ 47 C.F.R. §§ 2.803(a)(1) and 2.815(b)

III. APPLICABLE LAW AND VIOLATIONS

4. Section 302(b) of the Communications Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.”

5. The applicable implementing regulations for section 302(b) are set forth in section 2.803, of the Rules.⁴ Section 2.803(a)(1) of the Rules provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.⁵

Additionally, section 2.803(g) of the Rules provides in relevant part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.⁶

6. Section 2.815(b) of the Rules also provides that “[n]o person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier...unless the amplifier has received a grant of certification in accordance with subpart J of this part and other relevant parts of this chapter.”

7. Dual use CB and amateur radios may not be certificated under the Commission’s rules. Section 95.655(a) of the Rules specifically states: “...([CB] Transmitters with frequency capability for the Amateur Radio Services...will not be certificated).”⁷ Accordingly, such devices cannot legally be imported or marketed in the United States.⁸

8. Spark Gap CB offered to sell to an individual (an undercover Enforcement Bureau agent) an external radio frequency power amplifier and a ten-meter amateur radio with both CB and amateur radio capability. Accordingly, we find that Spark Gap has violated section 302(b) of the Communications Act and sections 2.803 and 2.815(b) of the Rules by marketing in the United States external radio frequency power amplifiers and radio frequency devices that are not eligible for certification. We therefore issue this Citation to Spark Gap for violating the Rules as discussed above. Spark Gap should take immediate steps to ensure that it does not import, advertise, or sell such devices..

⁴ 47 C.F.R. § 2.803.

⁵ 47 C.F.R. § 2.803(a)(1).

⁶ 47 C.F.R. § 2.803(g).

⁷ 47 C.F.R. § 95.655(a).

⁸ See Response from the Commission’s General Counsel to the U.S Customs Service, dated May 17, 1999, 14 FCC Rcd 7797 (1999) (advising U.S. Customs Service that dual use CB and amateur radios are not acceptable for importation into the United States).

IV. FUTURE COMPLIANCE

9. If, after receipt of this Citation, Spark Gap CB violates the Communications Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.⁹ In addition, violations of the Communications Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.¹⁰

10. Spark Gap CB may respond to this Citation within thirty (30) days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify what actions have been taken by Spark Gap CB Shop to ensure that it does not violate the Rules governing the marketing of radio frequency devices in the future. Please reference file number EB-10-CG-0013 when corresponding with the Commission.

11. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.¹¹ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.¹² Please also note that section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹³

V. CONTACT INFORMATION

12. The closest FCC office is the Chicago District Office in Park Ridge, Illinois. You may contact James M. Roop by telephone, 847-813-4660, to schedule a personal interview, which must take place within thirty (30) days after the release date of this Citation. You should send any written statement within thirty (30) days after the release date of this Citation to: Federal Communications Commission, Chicago Office, 1550 North Northwest Hwy, Suite 306, Park Ridge, Illinois 60068-1460.

13. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also, include a way we can contact you if we need more information. Please allow at least five (5) days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations: 202-418-0530 (voice), 202-418-0432 (tty);

⁹ See 47 U.S.C. § 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation (*see id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹⁰ See 47 U.S.C. § 510.

¹¹ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹² See 18 U.S.C. § 1001 *et seq.*

¹³ 47 C.F.R. § 1.17 (“... no person subject to this rule shall: (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”).

To request this document in accessible formats for people with disabilities (Braille, large print, electronic files, audio format):
202-418-0530 (voice), 202-418-0432 (tty).

VI. ORDERING CLAUSES

14. **IT IS ORDERED** that a copy of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Gary L. Stanford, d.b.a. Spark Gap CB Shop, 926 Woodlawn Road, Lincoln, Illinois 62656.

FEDERAL COMMUNICATIONS COMMISSION

James M. Roop
District Director
Chicago Office
Northeast Region
Enforcement Bureau